

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:

*TRANSLATION*  
**PCT**

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

**See form PCT/ISA/210**

|   |  |  |   |
|---|--|--|---|
| Applicant's or agent's file reference<br><b>0000055103</b>  |  | Date of mailing<br>(day/month/year)<br><b>See form PCT/ISA/210</b> |   |
| International application No.<br><b>PCT/EP2004/013071</b>   |  | International filing date (day/month/year)<br><b>18.11.2004</b>    | Priority date (day/month/year)<br><b>27.11.2003</b> |
| International Patent Classification (IPC) or both national classification and IPC<br><b>A01N43/90</b> |  |  |   |
| Applicant<br><b>BASF AKTIENGESELLSCHAFT</b>   |  |  |   |

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

|  |                    |
|--|--------------------|
| Name and mailing address of the ISA/EP | Authorized officer |
| Facsimile No.                          | Telephone No.      |

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/013071

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
 This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material
    - a sequence listing
    - table(s) related to the sequence listing
  - b. format of material
    - in written format
    - in computer readable form
  - c. time of filing/furnishing
    - contained in the international application as filed.
    - filed together with the international application in computer readable form.
    - furnished subsequently to this Authority for the purposes of search.
3.  In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
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|                  |   |  |
|------------------|---|--|
| <b>Box No. V</b> | <b>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</b> |  |
|------------------|---|--|

**1. Statement**

|                               |        |      |     |
|-------------------------------|--------|------|-----|
| Novelty (N)                   | Claims | 1-10 | YES |
|                               | Claims |      | NO  |
| Inventive step (IS)           | Claims | 1-10 | YES |
|                               | Claims |      | NO  |
| Industrial applicability (IA) | Claims | 1-10 | YES |
|                               | Claims |      | NO  |

**2. Citations and explanations:**

The cited documents are numbered in the same order as in the international search report.

The present invention concerns a synergetic fungicide mixture of a triazolopyrimidine derivate (I) and chlorothalonil (II).

D1 describes similar compositions, however compound (I) is replaced by an analog. D2 describes compound (I) together with analogs thereof and mentions (II) as a possible mixture partner in a list, although the claimed combination is not specifically disclosed as such, and there is no clear teaching associated with such a combination. Thus, the present application meets requirements of PCT Article 33(2) because the subject matter of claims 1-10 is novel in relation to the prior art defined in the Implementation Regulations (PCT Rule 64.1-64.3).

The present application contains comparative experiments claiming precisely the pre-published compositions from D1. These experiments show clearly that the selection in the present invention not only enables a synergistic effect, but also an improved synergistic effect as compared to the most similar compounds from D1. This improvement is not obvious.

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**Box No. V** Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Thus, the present application meets the requirements of PCT Article 33(3) because the subject matter of claims 1-10 involves an inventive step (PCT Rule 65.1-65.2).

The present application meets the requirements of PCT Article 33(4) because the subject matter of claims 1-10 is considered industrially applicable.